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UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC

Issued by the Department of Transportation on February 12, 2003

NOTICE OF ACTION TAKEN -- DOCKET OST-2003-14244 - 2

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of Kalitta Air, L.L.C. filed 1/10/03 for:

XX Exemption for two years under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of property and mail between points in the United States, on the one hand, and points in the United Kingdom and the Netherlands, on the other.<sup>1</sup> Kalitta requests that this authority be integrated with its existing authority, as well as with the authority being requested in its application in Docket OST-2002-13756.<sup>2</sup>

Applicant rep: Mark W. Atwood (202) 463-2513 DOT Analyst: Sylvia Moore (202) 366-6519

DISPOSITION

XX Granted in part (subject to conditions, see below)

XX Balance dismissed (see below)

The above action was effective when taken: February 12, 2003, through February 12, 2005

Action taken by: **Paul L. Gretch, Director**  
**Office of International Aviation**

XX The exemption authority granted is consistent with the aviation agreements between the United States and the United Kingdom, and the United States and the Netherlands.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: XX Holder's certificates of public convenience and necessity

XX Standard exemption conditions (attached)

(See Reverse Side)

<sup>1</sup> Initially, Kalitta proposes to operate three weekly flights over a New York-East Midlands-Amsterdam-Chicago or New York routing and two weekly flights over a Chicago-East Midlands-Amsterdam-New York routing. Kalitta will load and offload only third and fourth freedom traffic at East Midland. U.S.-bound traffic from the U.K. will be transported over Amsterdam, and U.S.-Netherlands traffic over East Midland, on a blind sector basis.

<sup>2</sup> Kalitta's application in Docket OST-2002-13756 is pending before the Department.

**Conditions:** The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon Kalitta rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Kalitta notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in Kalitta's authority by virtue of the route integration exemption granted here, but that are not then being used by Kalitta, the holding of such authority by route integration will not be considered as providing any preference for Kalitta in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

**Dismissal:** We dismissed that portion of Kalitta's application here requesting route integration with authority being sought by Kalitta in its application in Docket OST-2002-13756. That latter application is still pending.

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On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the exemption authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

*An electronic version of this document is available on the World Wide Web at:  
[http://dms.dot.gov/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)*

**U.S. CARRIER**  
**Standard Exemption Conditions**

In the conduct of operations authorized by the attached notice, the applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with the applicable requirements of the Federal Aviation Administration Regulations and with all applicable U.S. Government requirements concerning security;<sup>1</sup> and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.

10/2002

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<sup>1</sup> To assure compliance with all applicable U.S. Government requirements concerning security, the holder should, before commencing any new service (including charter flights) to or from a foreign airport, inform its Principal Security Inspector of its plans.